

House Bill 1302 (AS PASSED HOUSE AND SENATE)

By: Representatives Glanton of the 76th, Johnson of the 75th, Starr of the 78th, Sinkfield of the 60th, Jordan of the 77th, and others

A BILL TO BE ENTITLED
AN ACT

To provide a code of ethics for the Clayton County School System; to provide for prohibited practices; to provide for disclosure; to provide for an ethics commission; to provide for membership; to provide for appointment and vacancies; to provide for eligibility; to provide for duties and powers; to provide for compensation; to provide for complaints; to provide for hearings and actions; to provide for sanctions; to provide for appeals; to provide for a training program; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

As used in this Act, the term:

(1) "Board" means the Clayton County Board of Education.

(2) "Commission" or "ethics commission" means the ethics commission created by Section 3 of this Act.

(3) "Relative" means an officer's or employee's spouse and the following relationships by consanguinity or affinity: father, mother, son, daughter, brother, sister, grandparent, and grandchild. For purposes of this section, the term "relative" shall also include any other person living in the household of the officer or employee.

SECTION 2.

(a) Except as otherwise provided by general law, no elected official, appointed officer, or employee of the Clayton County School System or of any office, department, or agency thereof shall knowingly:

(1) Engage in any business or transaction with or have a financial or other personal interest, direct or indirect, in the affairs of the Clayton County School System which would result in a financial benefit, except for a financial benefit of a nominal or incidental amount, to the official, appointed officer, employee, or relative of such person or which

1 would tend to impair the independence of judgment or action in the performance of
2 official duties;

3 (2) Engage in or accept private employment from or render services for private interests
4 when such employment or service is incompatible with the proper discharge of such
5 person's official duties or would tend to impair his or her independence of judgment or
6 action in the performance of his or her official duties;

7 (3) Disclose information or use information, including information obtained at meetings
8 which are closed pursuant to Chapter 14 of Title 50 of the O.C.G.A., concerning the
9 property, government, or affairs of the Clayton County School System or any office,
10 department, or agency thereof that is not available to members of the general public and
11 gained by reason of his or her official position for his or her personal gain or benefit, to
12 advance his or her financial or other private interest, or to advance the financial or private
13 interest of any other person or business entity;

14 (4) Represent private interests in any action or proceeding against the school system or
15 any office, department, or agency thereof;

16 (5) Vote or otherwise participate in the negotiation or the making of any contract with
17 any business or entity in which he or she, or his or her relative, has a financial interest;

18 (6) Solicit, accept, or agree to accept gifts, loans, gratuities, entertainment,
19 transportation, lodging, meals, any ticket of admission, discounts, payment, or service,
20 except those of a value less than \$50.00, from any employee, student, parent, person,
21 firm, or corporation which to his or her knowledge is interested directly or indirectly in
22 any manner whatsoever in business dealings with the school system or any office,
23 department, or agency thereof; provided, however, that an elected official who is a
24 candidate for public office may accept campaign contributions and services in connection
25 with any campaign;

26 (7) Advertise business and professional services to the school system or its employees
27 for personal gain;

28 (8) Use district resources for personal or commercial enterprise;

29 (9) Vote or otherwise participate in an appointment, employment, or promotion decision
30 related to a relative;

31 (10) Vote or otherwise participate in an appointment, employment, or promotion
32 decision of a person when the public official knows or should know that such vote or
33 participation would create a direct or indirect monetary benefit or economic opportunity;

34 (11) Have a personal interest, directly or indirectly, in school real estate, school
35 textbooks, or school materials and supplies of any kind whatsoever;

(12) Sell, solicit, or offer for sale to the board or to any official or employee of the board, directly or indirectly, any kind of school real estate, textbooks, or school materials and supplies, or receive any salary, bonus, or commission on any such sale;

(13) Have a financial interest in school buses, bus equipment or supplies, provide services for buses owned by the board, or sell gasoline to the board from a corporation in which the board member is a shareholder;

(14) Use property of the school system for personal benefit or profit except in accordance with policies and procedures promulgated by the board; or

(15) Vote or participate in discussions or deliberations at any meeting of the board or any committee of the board of any issue before the board in which the board member or a relative of the board member has matters involving consideration of his or her conduct, matters which would inure to his or her financial or personal interests, or matters which would be a conflict of interest.

(b) No elected official shall:

(1) As a consequence of his or her position accept any honoraria. As used in this paragraph, the term "honoraria" means a payment of money or anything of value for any appearance, discussion, speech, or article by such official, or for travel and subsistence expenses in excess of any actual and necessary expenses in connection with such appearance, discussion, or speech; or

(2) Either directly or indirectly solicit membership in any professional organization or labor union which represents employees of the school system.

(c)(1) Any elected official, appointed officer, or employee of the school system who has any financial interest, directly or indirectly, in any contract or matter pending before or within any office, department, or agency of the school system shall disclose such interest in writing to the board. Any board member who has a financial interest in any contract or matter pending before the board shall disclose such interest, in writing, and such disclosure shall be entered on the records of the board. The disclosure of any salary received by a board member from the school system or any entity doing business with the school system may be accomplished by naming the entity and position held by the board member with such entity. Interest and dividends from entities doing business with the school system which are listed on a national stock exchange or have more than 100 stockholders do not have to be disclosed. Likewise, the disclosure of any salary received by an immediate relative of the board member may be accomplished by naming the relative and the position held. The board member also shall disqualify himself or herself from participating in any decision or vote relating thereto.

(2) Any contract between the school system and another party shall be voidable or rescindable at the discretion of the board at any time if any elected official, appointed

officer, or employee has any interest in such contract and does not disclose such interest in accordance with the provisions within this Act.

(d) Prior to January 31 of each year, each elected official shall disclose publicly the identity of any relative employed by the Clayton County School System to the executive assistant to the board on such form as prescribed by the board.

SECTION 3.

(a) Appointed officers and employees of the school system may be punished for violation of the provisions within this Act as provided in this section.

(b) Appointed officers and employees not subject to civil service or covered by the provisions of O.C.G.A. Section 20-2-940, et seq., shall have the right to request a hearing before the board upon written charges being provided to such officer. At such hearing, the officer shall have the right to be heard, to be represented by counsel, and to require the attendance of witnesses and the production of relevant books and papers. If, after the hearing, the accused is found guilty as charged, he or she may be suspended or dismissed from the service of the school system by a majority vote of the members of the board.

(c) Employees covered by the provisions of O.C.G.A. Section 20-2-940, et seq., shall be subject to suspension, dismissal, or nonrenewal in accordance with the provisions of that general law; and

(d) Employees subject to civil service rules, upon a violation of this article, shall be subject to suspension or dismissal in accordance with the provisions of this Act and the personnel rules and regulations adopted by the board.

SECTION 4.

(a) Board members shall be punished for violations of the provisions of this Act as provided in this section.

(b)(1) The Clayton County Legislative Delegation to the General Assembly shall establish a seven-member ethics commission to consider ethics complaints brought against a board member. Each member of the delegation may nominate up to two candidates and the members of the commission shall be elected by majority vote of the delegation. When the commission is first established, three persons will be appointed to serve four-year terms, and four persons will be appointed to serve two-year terms. Thereafter members shall serve terms of four years. Each member of the commission shall hold office from the date of appointment until the end of the term for which he or she was appointed. Members of the commission shall not be eligible for reappointment. If a vacancy occurs on the commission, the delegation shall within 45 days appoint a person to fill the unexpired term.

(2) Before the commission is established, the delegation shall determine whether all members of the commission shall be residents of Clayton County or whether all such members shall be selected from outside the county. Once such decision is made, it shall be irrevocable and may be changed only by legislation.

(3) The members of the delegation should make their initial nominations within 30 days after the effective date of this Act, and the delegation shall vote on the first members of the commission within 60 days after the effective date of this Act.

(4) The delegation shall appoint successors to members of the commission whose terms are due to expire, in the same manner as for appointing the initial members, with the nominations made 60 days before the expiration of the term and a vote made 30 days prior to such date.

(c) A person is eligible to serve as a member of the ethics commission if that person, while serving:

(1) Is at least 21 years old and a registered voter in his or her county of residence;

(2) Is not an employee of the Clayton County Board of Education or a relative or a business associate of any member of the board;

(3) Does not hold any elected or appointed office and is not a candidate for any office in the governments of the United States, the State of Georgia, or Clayton County;

(4) Has not provided a financial contribution of more than \$100.00 to, or worked significantly in, the political campaign of any current member of the board;

(5) Is not a relative of a person who provided a financial contribution of more than \$100.00 to, or worked significantly in, the political campaign of any current member of the board; and

(6) Has undergone a criminal background check and has not been convicted of a felony.

(d)(1) Members of the ethics commission shall be compensated on a per meeting basis at a rate determined by the board.

(2) The ethics commission shall elect one member to act as chairperson for a term of two years, or until a successor is duly elected. The chairperson shall have the same voting rights as the other commission members. The commission shall also elect one member to act as vice chairperson for the same term. If the office of chairperson or vice chairperson is vacated in any manner before the expiration of the term, the commission shall elect a member to fill the unexpired term.

(3) The board office will provide staff support to the ethics commission.

(4) Five members of the commission shall constitute a quorum.

(5) The commission shall establish guidelines relating to sanctions for various offenses consistent with the provisions of this Act.

(6) The commission shall have the authority to retain legal counsel as needed.

1 (e)(1) Any citizen eligible to vote in Clayton County or any employee of the Clayton
2 County School System may file a complaint alleging a violation of the standards
3 established by this Act or other applicable state or federal law by filing it with the
4 commission. The complaint shall be in writing and verified under oath.

5 (2) The chairperson of the ethics commission shall immediately forward a copy of the
6 complaint by certified mail to the board member against whom the complaint was filed,
7 along with a copy to each member of the board. A complaint must be filed within six
8 months of the date of the alleged violation or, in the case of concealment or
9 nondisclosure, within six months of the date the alleged violation should have been
10 discovered after due diligence.

11 (3) Within 30 days of receipt of a complaint, the ethics commission shall meet to review
12 the complaint to determine the complaint's credibility and whether the complaint states
13 an offense which, if proven true, would warrant sanction. Such meeting shall not be open
14 to the public. If, after reviewing the complaint, the commission by majority vote
15 determines that no good and sufficient cause exists for a determination that a violation
16 exists, the commission may dismiss the complaint and shall report said dismissal to the
17 board.

18 (f) If the commission determines that good and sufficient cause exists for a determination
19 that a violation has occurred, the commission shall conduct a formal public hearing. The
20 commission shall notify the board member charged with a violation of the date, time, and
21 place for the hearing by certified and regular mail. At the hearing, the commission shall hear
22 sworn testimony from all witnesses it deems relevant. The hearing shall be recorded by a
23 certified court reporter. The commission is authorized to issue subpoenas on behalf of any
24 party and for the appearance of any party or documents as provided by law. Hearings shall
25 be open to the public and shall comply with all state and federal open meetings and open
26 records laws.

27 (g) The accused board member shall have the following rights:

28 (1) To be represented by counsel;

29 (2) To view all evidence and interview all witnesses sufficiently prior to the hearing to
30 prepare a defense;

31 (3) To subpoena, through the commission, any relevant documents or witnesses;

32 (4) To cross examine all witnesses testifying at the hearing;

33 (5) To view any exculpatory evidence in the possession of the commission; and

34 (6) To present any evidence and testimony in his or her defense.

35 (h) If the commission determines that the evidence shows beyond a reasonable doubt that
36 the accused board member committed the offense for which he or she is accused, the

1 commission shall issue written findings and shall censure or reprimand the board member
2 or order the removal of the board member from office.

3 (i) The commission shall notify the board and the accused board member of its action within
4 five days of its decision by sending a certified letter to the chairperson and vice chairperson
5 of the board, the board member who is the subject of the investigation, and the accused
6 member's attorney, if any. The accused board member shall have the right to appeal the
7 commission's decision to the board by filing a notice of appeal with the chairperson of the
8 commission and the chairperson of the board within 15 days of the decision. If such a notice
9 of appeal is filed, the commission shall transmit to the board all transcripts and evidence
10 from the hearing. The accused member shall provide the commission with an address to
11 which the commission's decision may be mailed, and notice of the decision shall be deemed
12 to have been delivered on the day it was posted to such address.

13 (j) Within 30 days of receipt of a notice of appeal, the board shall determine whether to
14 accept or modify the commission's recommendation. Acceptance or modification of the
15 recommendation shall be decided by majority vote of all board members. The board shall
16 notify the accused board member of its decision by certified mail.

17 (k) Appeal of the board's decision shall lie in the Superior Court of Clayton County. The
18 decision of the board to accept the decision of the commission or to accept a modification
19 of such decision shall become effective within 10 days unless within such period the accused
20 member or the commission files a petition for review or other legal action in the court. No
21 disciplinary action shall occur until all appeals have been exhausted, and the accused member
22 shall remain a voting member of the board until that time.

23 (l) No member of the ethics commission or any person acting on behalf of the ethics
24 commission, operating within the course and scope of this section, or any person bringing
25 a complaint before the commission, shall be liable to any person for any damages arising out
26 of such action.

27 **SECTION 5.**

28 The board shall provide for a mandatory training program for persons who are elected or
29 reelected to the board and to persons who are newly appointed to the commission. Such
30 training shall be completed within 60 days of such election, reelection, or appointment. The
31 training program shall include an explanation of the prohibitions contained in Section 2 of
32 this Act and the practices and procedures contained in Section 4 of this Act. The board may
33 contract with an institution of the University System of Georgia or any certified institution
34 or individual qualified to perform such training, and the cost shall be borne by the Clayton
35 County School System. No appointed member of the commission shall be eligible to

1 participate in any function of the council until he or she has completed such training
2 program.

3 **SECTION 6.**

4 This Act shall become effective upon its approval by the Governor or upon its becoming law
5 without such approval.

6 **SECTION 7.**

7 All laws and parts of laws in conflict with this Act are repealed.